IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 4208 of 1999

Between:

Moid Ahmed Khan, S/o late Niazuddin Ahmed Khan,
R/o 16-1-27/8/B, Jayanagar, Saidabad, Hyderabad

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad ,
Tank Bund, Hyderabad.
2 The Dy. Municipal Commissioner, Circle No.1,
Sardar Mahal, Hyderabad
3 G.V.K. Reddy, R/o 16-1-27/C/31, Jayanagar,
Saidabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, declaring the action of the Respondents 1 and 2 in threatening to demolish the structures raised in 16-1-27/8/B, Jayanagar, Saidabad, Hyderabad without issuing any notice or order as illegal, arbitrary and unconstitutional and consequently direct the Respondents 1 & 2 not to interfere or demolish the structures raising in 16-1-27/8/B, Jayanagar, Saidabad, Hyderabad.

Counsel for the Petitioner: MR.M.LAYEEQ KHAN

Counsel for the Respondents 1 & 2 : MR.RAMA RAO GHANTA

Counsel for the Respondent no.3: Mr. N.Vijaya Kumar

The Court made the following :

ORDER:

The Writ Petition is filed apprehending demolition of the structures raised by the petitioner in 16-1-27/8/B, Jayanagar, Saidabad, Hyderabad without issuing any notice or order, by the respondents 1 and 2, as illegal, arbitrary and unconstitutional, and consequently direct the respondents 1 and 2 not to interfere or demolish the structures.

It is the case of the petitioner that he is the owner and possessor of the house bearing no.16-1-27/8/B of Jayanagar, Saidabad, Hyderabad and his vendor obtained approval of the house plan from the second respondent and so, he started construction as per the plan without any deviations therefrom. The third respondent, who is his neighbour, made a false application before the respondents 1 and 2 stating that the petitioner was trying to extend his roof into his house, only with a jealous intention to stop the construction, and on that, apprehending demolition, the present Writ Petition is filed.

This Court, as per the order dated 03.03.1999 in W.P.M.P. No.5278 of 1999, granted interim direction to respondents 1 and 2 not to interfere or demolish the structures. But, the same was vacated on 24.11.1999 as per the order in W.V.M.P. No. 1775 of 1999, for default of the petitioner. Thereafter the petitioner did not take steps to restore the interim order passed by this Court, which was subsequently vacated.

Considering the facts and circumstances, there is no action initiated by the first respondent at the instance of the third respondent, and the entire Writ Petition is proceeded against the third respondent. The third respondent filed counter stating that the petitioner started illegal construction contrary to the sanctioned plan of the corporation. In the above circumstances, I do not see any grounds to interfere in this Writ Petition in exercise of powers conferred under Article 226 of the Constitution of India, as it is filed merely on apprehension.

The Writ Petition is, accordingly, dismissed. No costs.

12.07.2005

DRK

Copy to:

1. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.

2 The Dy. Municipal Commissioner, Circle No.1,
Sardar Mahal, Hyderabad

3 Two CD copies.